

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EWIN OSCAR MARTINEZ,
Plaintiff

v.

UNITED STATES OF AMERICA, *et al.*,
Defendants

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: CIVIL NO. 1:10-CV-2156
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:

O R D E R

AND NOW, this 11th day of September, 2012, upon consideration of the report (Doc. 67) of the magistrate judge, filed August 7, 2012, the lack of objections to the report, and upon independent review of the record, it is ORDERED that:

1. The magistrate judge's report (Doc. 67) is adopted.
2. Defendants' motion (Doc. 43) to dismiss and for summary judgment is granted as follows.
3. The claims against defendant, Warden Ebbert, and defendant, Associate Warden Nicklin, are hereby dismissed.
4. Plaintiff's claims of conspiracy, intentional infliction of emotional distress, false charges and due process violations, right to particular employment, racist and rude remarks and his claims under the Federal Tort Claims Act are hereby dismissed.
5. The Clerk of Court shall enter judgment against Plaintiff and in favor of defendants, S. Fausey; "teacher" Yearick; Associate Warden Nicklin; Zielinski; Case Manager Chamberlin; Officer Alexander; Officer Sawyer; "teacher" McKimpton; Unit Manager McIntyre; physician assistant M. Powanda; and Warden Ebbert.

6. The claims against the FCI Beckley defendants, Officer Trump; Warden Berkebile; Lieutenant Boadway; Senior Officer Banton; and Bowman are dismissed for lack of personal jurisdiction.

7. The claim(s) against defendant Nash are dismissed for lack of venue.

8. The Clerk of Court shall close this file.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge